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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/073,825 05/07/98 TSUJIMOTO

S 0004634P

EXAMINER

QM32/0425

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ART UNIT

PAPER NUMBER

3724

DATE MAILED:

04/25/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/073,825

Applicant(s)

Tsujimoto

Examiner

Ken Peterson

Group Art Unit

3724



☒ Responsive to communication(s) filed on 5 Jan 2001

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 8-16 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 8-16 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☒ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☒ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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1. Claims 14-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

At the end of claim 14 is a "collinear line". What is it collinear with?

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 8-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yoshida et al. '324 in view of Lucki et al or Vosburgh.

Yoshida '324 shows a bandsaw blade with most of the recited limitations. Many of Yoshida's 31 embodiments show the teeth settings of applicants claims with teeth of matching size and respective coaxial bending lines of matching length. Note the species of figure 7 shows cutting tips end that are generally in a line that is parallel to the moving direction.

Yoshida's teeth do not have pitches that differ from one another. However, this is old and well known in the art as shown by Lucki or Vosburgh. It would have been obvious to one of ordinary skill in the art to have modified Yoshida by making the pitches differ from one another,

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as taught by Vosburgh, in order to decrease chattering and jumping (column 1), or by Lucki, in order to decrease sound levels (lines 60-64 of column 3).

4. Claims 8-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clark '967.

Clark shows a band saw with most of the recited limitations includes alternating offset teeth with tip ends in a line (figure 4). The teeth and bend lines are substantially the same for each tooth and the gullet bottoms are below the bend lines.

Clarks' bend lines are very close to being collinear, as best seen in figure 4, and are considered to be *substantially collinear*. It is deemed that the use of *exactly collinear* bend lines in lieu of the *substantially collinear* bend lines used in the prior art solves no stated problem and would have been an obvious matter of design choice within the skill in the art. In re Kuhle, 188 USPQ 7.

5. Applicant's arguments have been fully considered but they are not persuasive.

Applicant argues that Yoshida teaches away from a variable pitch by stating that all teeth should carry an equal load. However, teaching *a way* is not necessarily teaching *away*. The obvious advantages, such as decreased jumping, chattering and sound levels, set forth by the secondary references would make one of ordinary skill in the art consider adding these features to Yoshida, even if it meant altering one of Yoshida's desirable features. Since Yoshida teaches

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many different desirable features, the partial mitigation of one of those features in favor of a new feature is something that every engineer has to consider when making a product.

Applicant argues that Yoshida's figures 1 and 4 do not show the claimed invention.

However, the above rejections do not rely on the Yoshida's species of figures 1 and 4.

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ken Peterson whose telephone number is (703)308-2186 from 7:15am to 4:15pm on Monday thru Thursday.

If attempts to reach the Examiner are unsuccessful, his supervisor, Rinaldi Rada, can be reached at (703)308-2187 from 7am-5pm on Monday thru Thursday.

Documents related to this Application may be submitted at anytime by fax transmission to (703)305-3579/3580.

Those willing to risk an internet security breach may e-mail the Examiner at kenneth.peterson@uspto.gov

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1148.

kp
April 23, 2001



KENNETH E. PETERSON
PRIMARY EXAMINER